

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of :

SCHNEIDER, D. G.

Serial No.: 10/684,312

Art Unit: 3749

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Atty Docket: DGS001

Confirmation No: 3321

For: COLLAPSIBLE HEATING APPARATUS

Assistant Commissioner for Patents
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 CFR 1.131

Dear sir:

1 I, Donna Gail Schneider, declare as follows:

2

3 1. I am the sole inventor of the above-referenced patent application.

4

5 2. An Office Action mailed July 1, 2008 in connection with the present
6 application rejected claims 1-16 under 35 U.S.C. 102(e) in view of Deichler,
7 Jr. (U.S. 6,708,604).

8

9 3. I conceived my invention and reduced it to practice in the United States long
10 prior to May 22, 2003, the earliest effective filing date of U.S. Patent No.
11 6,708,604.

- 12 4. As evidence of my reduction to practice, well before the effective filing date
13 of the Deichler '604 patent, of all aspects and features of the presently claimed
14 invention that are allegedly anticipated by Deichler, I have attached hereto as
15 Exhibit 'A' photographs of an embodiment of the invention constructed and in
16 operation in various configurations. For purposes of ensuring that the
17 essential content of the photographs is preserved during copying and scanning
18 at the Office and to provide high contrast line drawings suitable for the
19 permanent record of the Office, Exhibit 'A' includes black-and-white contrast
20 line renderings derived from the photographs using a common image
21 processing software application. Where reference is made below to a given
22 photograph-bearing sheet (i.e. Sheet 2), reference is also being made to the
23 corresponding rendering derived from that photograph (i.e. Sheet 2a).
- 24
- 25 5. I was personally involved in designing, constructing and testing the unit as
26 shown in these photographs and was present as these photographs were taken.
27 I attest that the date on the index print of photographs, although redacted, is
28 before January 1, 2003 and that this redacted date is on or after when the
29 photographs were taken and/or were printed or processed. Accordingly, the
30 photographs showing the claimed invention in operation demonstrate my
31 reduction to practice well before the effective filing date of the Deichler '604
32 patent.

33 6. The attached photographs of an actual implementations of the invention in .
34 operation exhibit the presently claimed aspects and are explained as follows:

35

36 (a) Sheet 1 of Exhibit A is an index print from a batch of photographs that
37 included the other photographs described below. For privacy, some unrelated
38 photographs on this index print have been obscured. I have first hand
39 knowledge that all of the photographs I have included in Exhibit A are from
40 the same batch of one or more reels of film represented by this index print that
41 were exposed and submitted for processing together. I attest that this index
42 print bears a complete date that, although partially redacted, indicates
43 preparation of the index print on a date before January 1, 2003 and therefore
44 well before May 22, 2003, the effective filing date of the Deichler '604 patent.
45 Note that the year portion of the date is showing, indicating 2002 as the year.
46 At least two of the photographs described further below appear on this very
47 same index print. Thumbnail image 25H shown here corresponds to Sheet 3
48 below and thumbnail image 24H corresponds to Sheet 4. The other
49 photographs below appeared on other similar index prints included with this
50 batch. All of the photographs described below show implementations of the
51 claimed invention (hereinafter "the unit") in various in-use and ready-to-store
52 configurations.

53

54 (b) Sheet 2 of Exhibit A is a photograph associated with the aforementioned
55 index print showing the unit having been assembled from a plurality of metal
56 side panels that were formed to detachably connect to one another along their
57 edges. Sheet 2 shows the assembled unit forming a space substantially closed

58 on all sides as might be appropriate for baking or smoking. A pair of panels
59 have been employed, one atop the other, to both enclose the side and to
60 provide support for a grill at a particular height within the frame so formed. A
61 small lip of the grill edge may be seen protruding slightly from between the
62 two panels.

63

64 (c) Sheet 3 of Exhibit A is a photograph associated with the aforementioned
65 index print and affords a view of the assembled frame in relation to the top
66 and bottom parts which are readily separable from the rigidly assembled, self-
67 supporting frame. This view shows a transverse member disposed within the
68 frame about half way up and being supported there by resting, along an edge,
69 on the top of the bottommost panel that forms the side. In this embodiment,
70 the transverse member was also resting on a similar arrangement of panels
71 (mostly obscured here by the top piece) on the opposite 'backside' of the
72 assembled unit. The manner in which a transverse member rests upon panel
73 edges within the frame is shown here and in other pictures (Sheet 6, for
74 example) that follow. With respect to presently pending claim 14, these
75 images demonstrate that my frame at this time comprised a transverse member
76 for supporting an item to be heated and that the transverse member was
77 coupled to the frame. Further, with respect to claim 16, and as explained in
78 the presently pending application ([0054]-[0055]) this transverse member,
79 when coupled to the frame as shown, maintained the shape of the frame in the
80 rectangular form shown and improved rigidity of the frame at least by edge-
81 stiffening the thin side panels and by keeping the end panels held apart,
82 which, in turn, kept the joints between side panels and end panels in a

desirable position. Because of the joint shape employed in this implementation to connect end panels and side panels, as was later described in conjunction with FIG 2 of the application, the presence of the transverse member did indeed act to hold the panels in place.

87

(d) Sheet 4 of Exhibit A is a photograph associated with the aforementioned index print and shows an arrangement of side panels, different than for Sheet 2, affecting, in this instance, both how much of the side is enclosed and which portion of the side is enclosed. Thus, Sheet 2 and Sheet 4 depict two different constructions that I built from the same 'kit' of panels. In Sheet 4, a panel has been excluded from the structure and the volume that is substantially enclosed is considered to have changed in comparison to Sheet 2. The side panels in this particular implementation were designed to firmly insert or wedge into adjoining pieces and to stay put in any vertical position for light loads. (An example of joints that were used to accomplish this are shown in FIG. 2 of the pending application.) At the time I built and tested the implementation shown in these photographs, I personally and intentionally chose this design to allow various panels to be a) interchangeable, b) selectively included or excluded in the construction and c) freely positioned and sequenced by a user while constructing the unit. In this implementation, the upper and lower panels shown on Sheet 2 were of similar dimension and so the degree of enclosure was primarily varied by my changing the number of panels used in constructing the side. Thus, with respect to claim 1 in the present application, comparing Sheet 2 to Sheet 4, I selected a configuration of panels to form a side of the frame to adjust an attribute of the enclosure, the attribute including

108 how much of the side was enclosed, which portion of the side was enclosed
109 and a volume substantially enclosed by the frame. Further, with respect to
110 claim 8, I selectively configured the side of the frame by employing a
111 selectable quantity of panels to affect these attributes of the enclosure.

112

113 (e) Sheet 5 of Exhibit A is a photograph associated with the aforementioned
114 index print showing yet another configuration wherein , in comparison to
115 Sheet 2, a shorter side panel was used in the design and assembly of the frame
116 of the unit to establish a lower grill position. Furthermore, note the
117 availability of two other interchangeable panels on the ground in front of the
118 unit that were designed to replace the first panel that is shown to be already in
119 position, or to be inserted above the first panel to either further enclose the
120 heated space or to elevate the grill (a transverse member) to a higher position.
121 These panels also were specifically designed to be inserted in any arbitrary
122 order from bottom to top to support one or more grills or other transverse
123 members in variable configurations. The first panel already inserted and the
124 panels on the ground had different widths (corresponding to different vertical
125 dimensions when incorporated in the assembled unit), lending to finer control
126 over the grill positioning as well as control over the proportion and position at
127 which a variably-configured side of the unit was enclosed. In particular, these
128 panels measured 3.5", 3" and 2.5" as indicated on Sheet 5b as panels A,B and
129 C, respectively. Thus, these panels had a particular physical dimension that
130 affected attributes of the enclosure. Configuration of the enclosure was
131 achieved by the user selecting, during assembly, from among these panels
132 having different measurements. As one or more panels were installed to form

133 a side of the unit, the width dimensions of each panel translated into a vertical
134 height relative to the assembled standing frame. As shown, the ‘backside’ of
135 this unit was constructed of a second set of three panels having these same
136 dimensions. As I positioned one or more of the panels on the front side to
137 vary the height of the grill (transverse member), I necessarily had to change
138 the order in which the similar panels were stacked to fill in the backside.
139 Thus, I varied the sequence of stacking and, therefore, the position at which
140 each panel coupled to the remainder of the frame assembly. I declare that
141 these panels shown in this photograph were of different ‘widths’ and that I
142 deliberately designed and fabricated them that way to reduce to practice that
143 which the present claims recite.

144

145 (f) Sheet 6 of Exhibit A is a photograph associated with the aforementioned
146 index print showing an operation of the unit while configured in a manner
147 similar to Sheet 5, that is, with the top removed for easy access to items and
148 utensils on the grill. In this and other photographs, note the manner in which
149 the grill or other transverse members rest upon and, in a groove or channel
150 along its periphery, engages the top edge of the side panel to cooperatively
151 maintain a rigid, fixed-shape structure and to hold the side panel in place.
152 Also noteworthy is the fact that, in comparison to Sheet 5, a ‘shorter’ panel
153 has been employed on one side of the assembly, replacing the taller panel, to
154 allow the grill to be supported closer to the heat source. Compared to the
155 taller panel, this shorter panel has the same horizontal span but has a lesser
156 dimension along a relatively vertical direction when the panel is installed as
157 part of the frame. Even without a complex geometric analysis of the photos,

158 the photographs demonstrate, even to a casual observer, that the panels were
159 of different dimensions and were selectively included or excluded in the
160 assembled unit to vary the position and extent to which a side of the frame
161 was enclosed. On many occasions while testing the unit shown, I did place
162 each of panels A, B and C in the role of the bottom front panel, placed the
163 grill to rest upon this bottom front panel (both directly and with other
164 intervening panels stacked between), and did stack similar panels A, B and C
165 in different sequences along the back side of the unit. In the particular unit
166 shown, this practice was inherently required to provide an even support for the
167 grill, front-to-back, with the front arrangement determining how the back
168 panels would need to stack. (This ability for a user to freely select which
169 panels to use during assembly and to vary the order and position of panel
170 placement is also depicted in my pending application. One may compare the
171 placement of panels 302, 304 and 307 in FIG 4 versus FIG 5. This is also
172 evident in FIG 3 versus FIG 6 with respect to position of panels 302 and 304.)
173 Additionally, Sheet 6b is labeled to more clearly point out the relevant
174 features, namely the bottom panel placed along the front side and supporting
175 the grill, plus two separate panels in back. (The bottommost back panel,
176 similar in dimension to the front panel, is not clearly seen here but is the point
177 of support for the back edge of the grill.) In this embodiment, the front panel
178 was chosen from among panels A, B and C described above (3.5", 3", 2.5")
179 and the back panels pointed out here were selected from the remaining two
180 dimensions. In this view, the 3" panel (B) is selected for the front, the middle
181 back panel is 3.5"(A) and the topmost panel is 2.5"(C). I selected these
182 dimensions for the panels to provide a variety of height combinations (2.5, 3,

183 3.5, 5.5, 6, 6.5, 9), with many of the intervals between combinations being
184 only one-half of an inch. This allowed fine control over grill position. In
185 comparison, to Sheet 5, Sheet 6 shows a different ‘stacking’ of the panels,
186 with the widest panel ‘A’ being at the bottom to support the grill at a different
187 height. In the year 2002, to transition this assembly from the configuration in
188 Sheet 5 to the configuration in Sheet 6, I selected a different subset of the
189 available panels to employ in the assembly and selected where to couple each
190 panel to the remainder of the frame. With respect to pending claim 9, these
191 photos demonstrate that I selectively employed a combination of panels to
192 form the side and selectively positioned the panels to affect both how much of
193 the side was enclosed and which portion of the side was enclosed. This is
194 evident even comparing the front side to the back side in each instance. With
195 respect to presently pending claim 14, a transverse member is seen here and in
196 other photos to have been coupled to the frame and supporting the item being
197 heated. Furthermore, with respect to pending claims 10, 11 and 12, Sheets 5
198 and 6 show that I selectively employed a combination of panels to form the
199 side and selectively positioned the panels to affect both how much of the side
200 is enclosed and at what position the transverse member was supported by the
201 frame as well as what portion of the side was enclosed, with some panels
202 comprising the configurable side(s) being the same ones that support the
203 transverse member (in this case, the grill) .

204
205 (g) Around the time these photographs were taken, I personally exercised the
206 unit by interchanging panels, during disassembly and reassembly, to form
207 various configurations, by including or excluding certain panels in the

208 assembled unit (of differing dimensions in some cases, in other cases varying
209 the number of like-dimensioned panels) to achieve desired grill height and
210 substantially enclosed volume. I also changed the order of panel placement
211 from bottom to top to independently vary the height of the grill and to what
212 extent, and at what position, a side of the frame was either opened or closed.
213 At the time this implementation was built, I intentionally designed the unit
214 shown to facilitate agility in changing configurations and to provide a wide
215 variety of useful configurations. For testing and evaluation, I personally
216 performed many assemblies, disassemblies and reconfigurations of the unit
217 shown in pursuit of these desirable characteristics. Thus, I was in complete
218 and enabling possession of the claimed invention at the time the photographs
219 were taken and hereby declare unequivocally that, at least as early as these
220 photographs were taken, I fully recognized and actively pursued, by design,
221 the attributes of the presently claimed invention, resulting in the actual
222 reduction to practice shown herein. As to presently pending claim 6, I
223 declare, and believe that comparison of Sheets 5 and 6 demonstrates, that I
224 selectively configured a side of the frame by selectively choosing among, in
225 constructing the side, a first panel (A) having a first measurement (3.5") in a
226 given dimension and a second panel (B) having a different second
227 measurement in the dimension (3"). Considering pending claim 7, when
228 either panel A or panel B was used as the bottommost front panel, the
229 differing dimensions varied the grill-support position in a vertical direction
230 when installed in the erected frame.

231

232 (h) Sheet 7 of Exhibit A is a photograph associated with the aforementioned
233 index print showing the individual panels from which the frame of the unit
234 was then constructed in the manner described above for the other photographs.
235 In accordance with this embodiment, all of the thin detachable panels
236 conveniently stored between the top and bottom 'lids' of the unit. The top and
237 bottom were made to slide together and interlock so that the complete unit,
238 including the grill and the side panels, formed a compact, enclosed form with
239 about the size and shape of an average book. In transitioning between the
240 collapsed form shown here and the erected forms shown in Sheets 2-6, the
241 panels were detachably coupled substantially along their adjacent edges using
242 joints of the types described in FIG 2 of the application and in the
243 accompanying text in the specification. As to claim 15, I declare that, due to
244 the engagement between the grill and side panels that is evident in Sheet 6 and
245 elsewhere, the grill was removably coupled to the frame (removed by lifting
246 upward off of the side panels and out of the frame) and, due to the joint
247 arrangement, was removed before collapsing, by disassembling, the frame by
248 then separating the end panels from the side panels.

249

250 7. I do not know of any instance, and do not believe that there has been any
251 instance, in which my invention has been in public prior to my invention and I
252 have never abandoned the invention.

253

254 8. All statements made herein are true of my own knowledge and all statements
255 made on information and belief are believed to be true; and further that these
256 statements were made with the knowledge that willfull false statements and

257 the like so made are punishable by fine or imprisonment or both under Section
258 1001 of Title 18 of the United States Code and that such willful false
259 statements may jeopardize the validity of any patent that may issue from the
260 present application.

261

Respectfully submitted,



Donna Gail Schneider

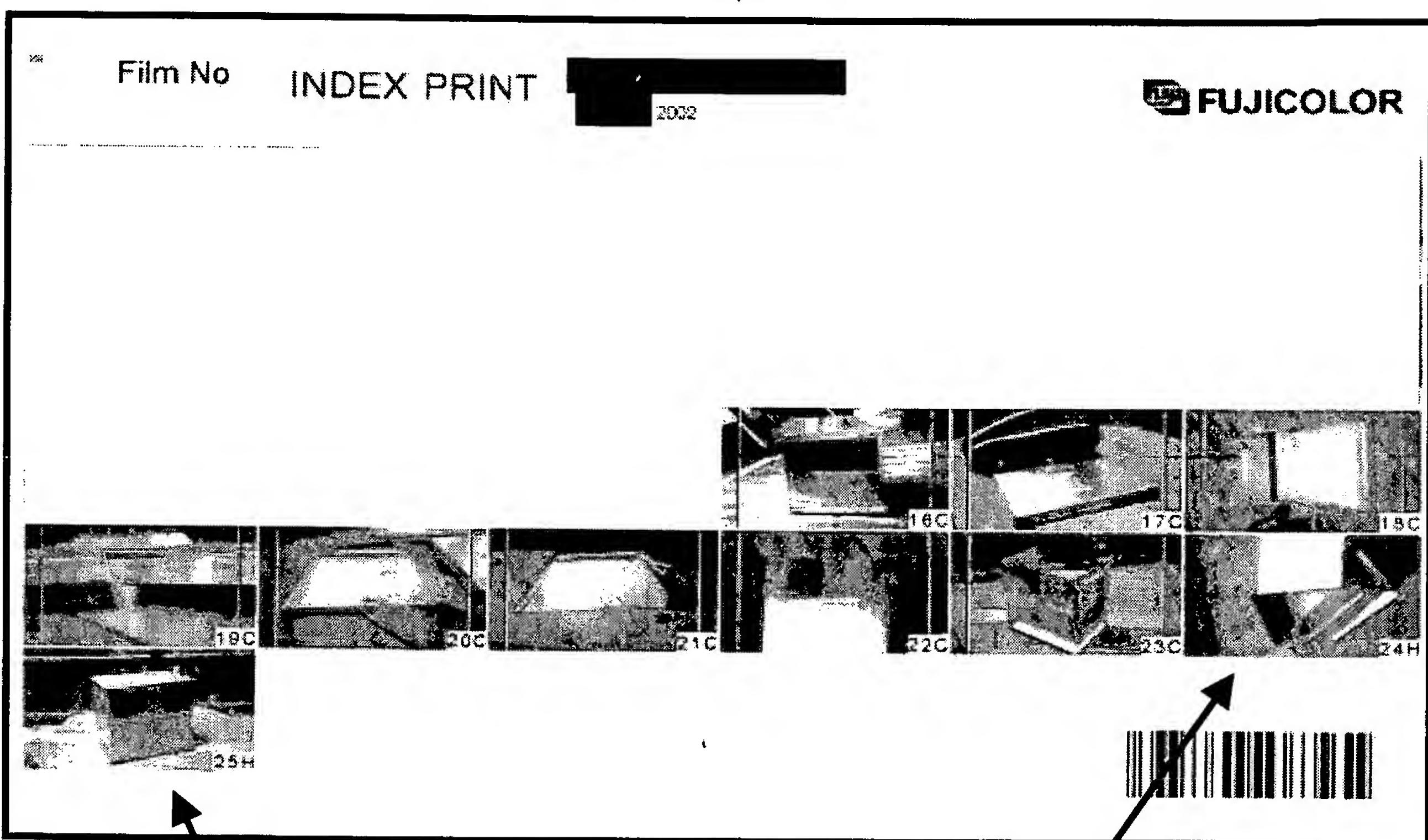
09-09-2008

Date

EXHIBIT 'A'

Exhibit A - Sheet 1

Complete date that appeared here is redacted, but year '2002' remains visible



25H

24H

Exhibit A - Sheet 2

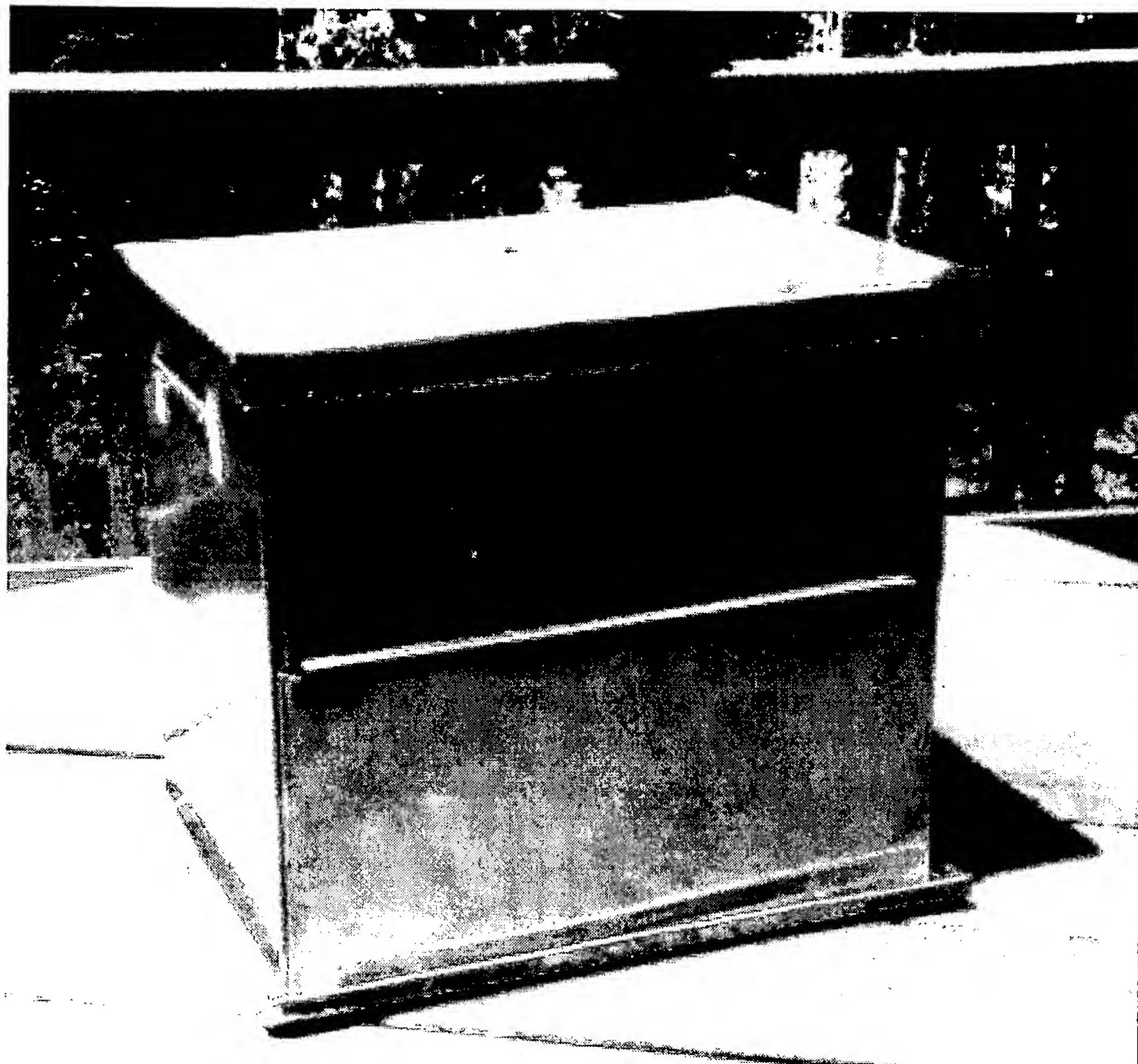


Exhibit A - Sheet 2a

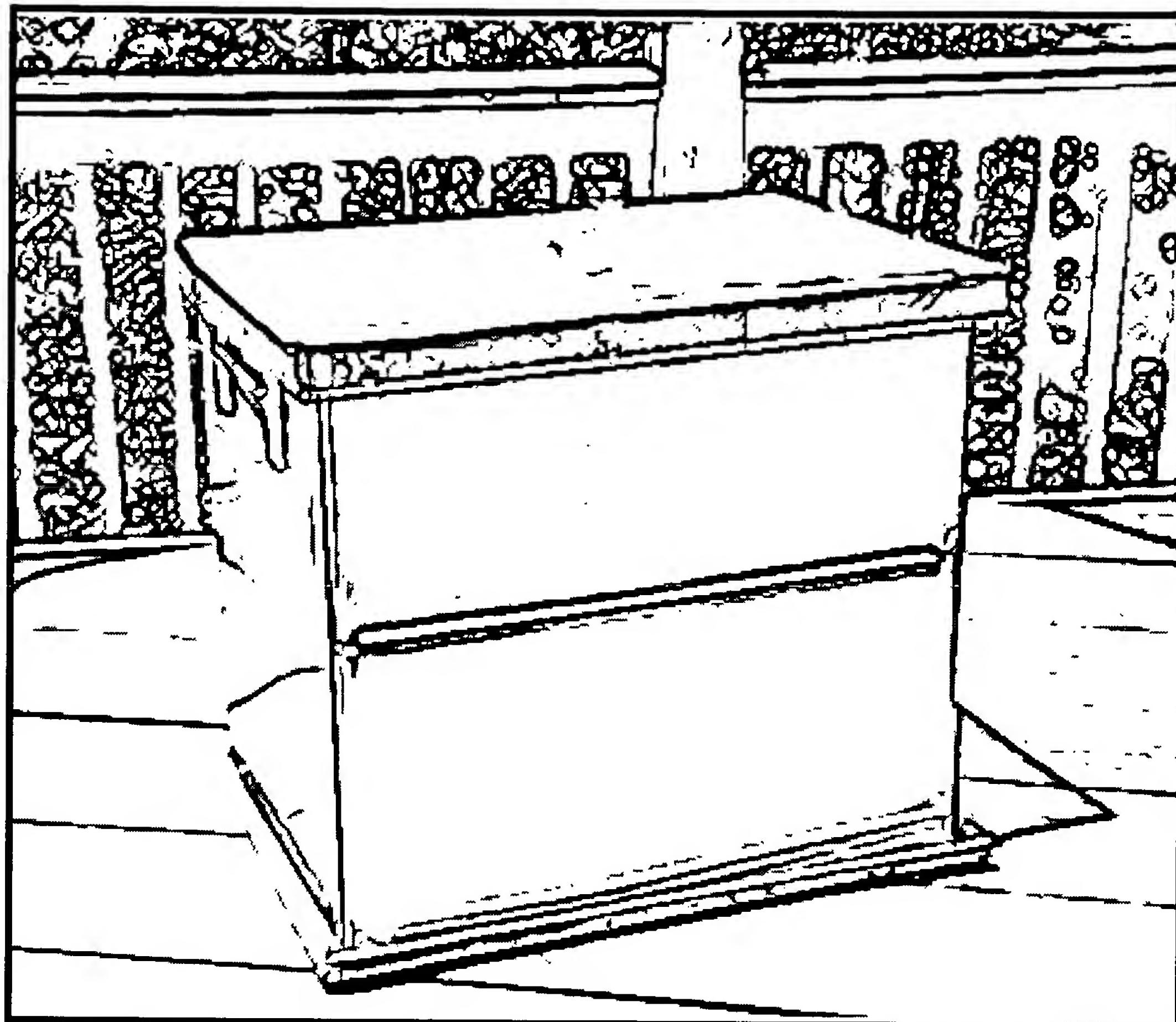


Exhibit A - Sheet 3

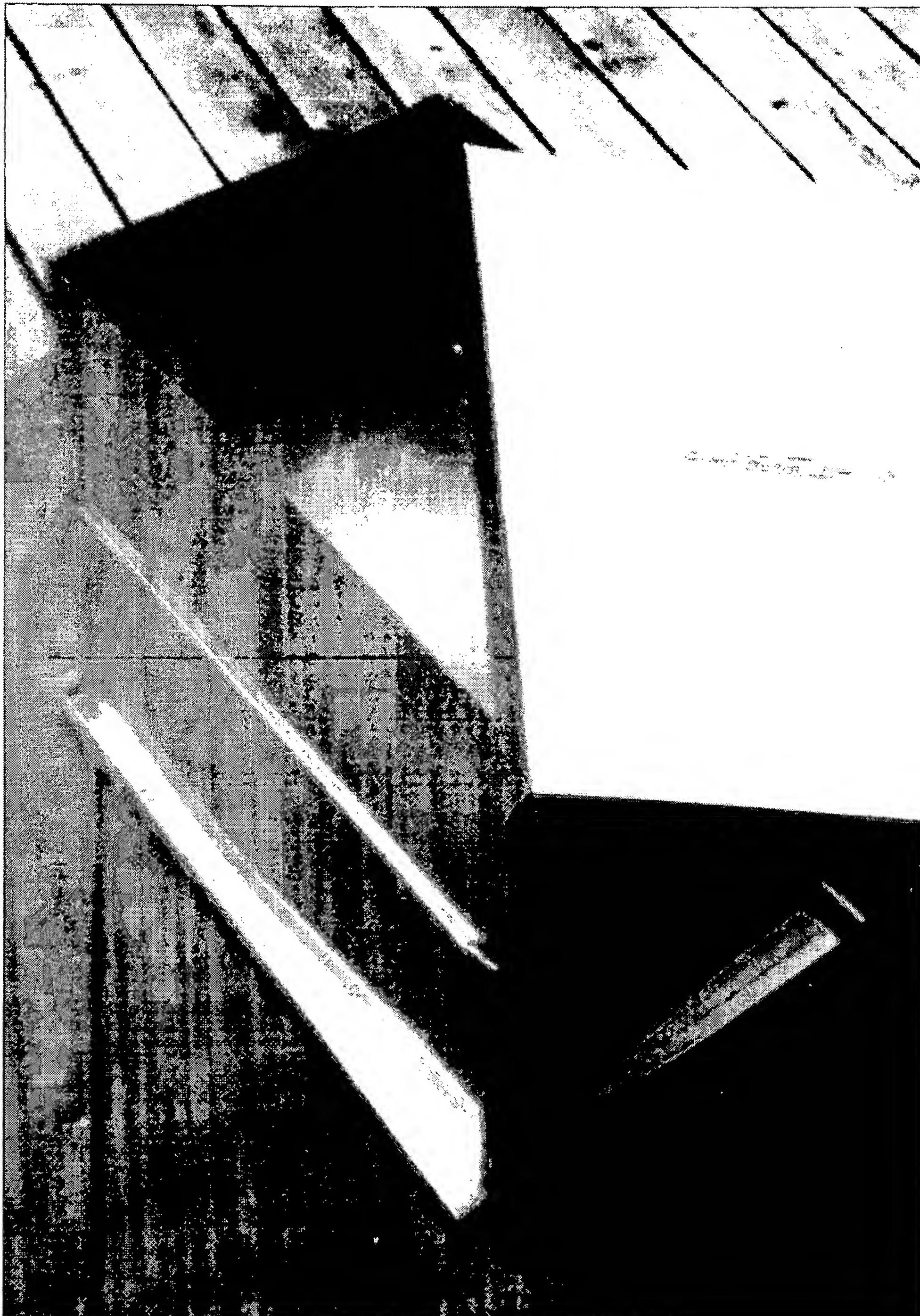


Exhibit A - Sheet 3a

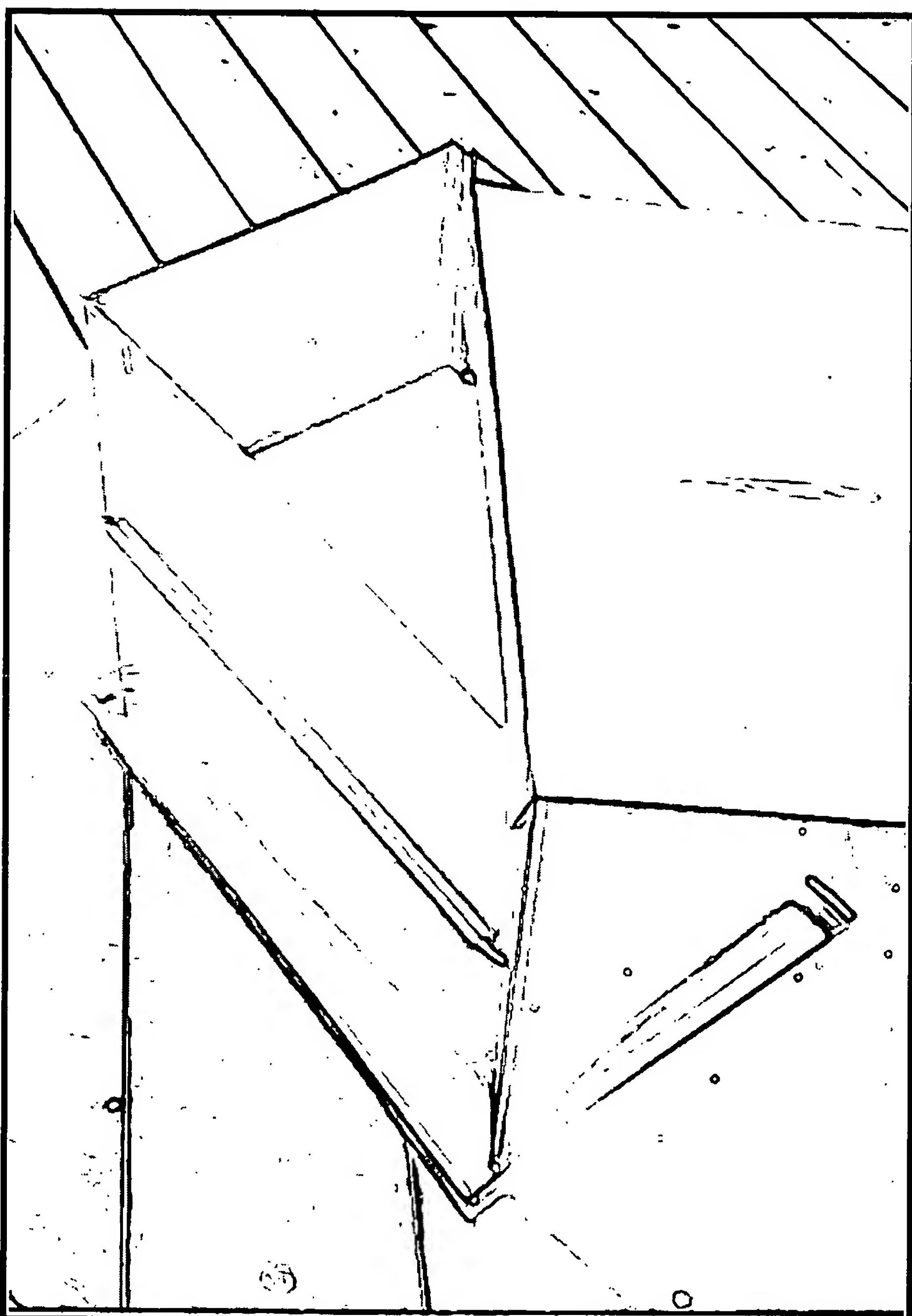


Exhibit A - Sheet 4

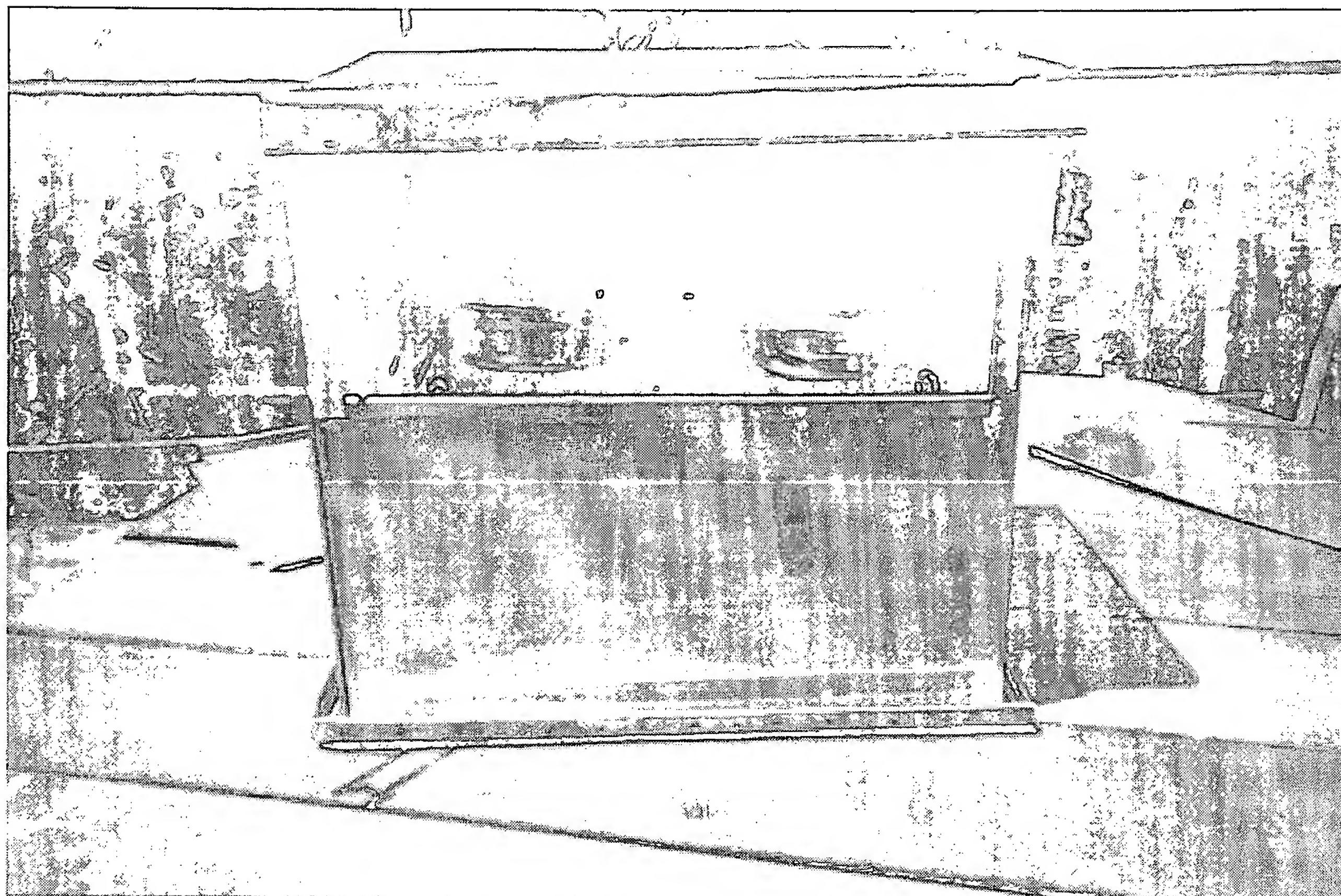


Exhibit A - Sheet 4a

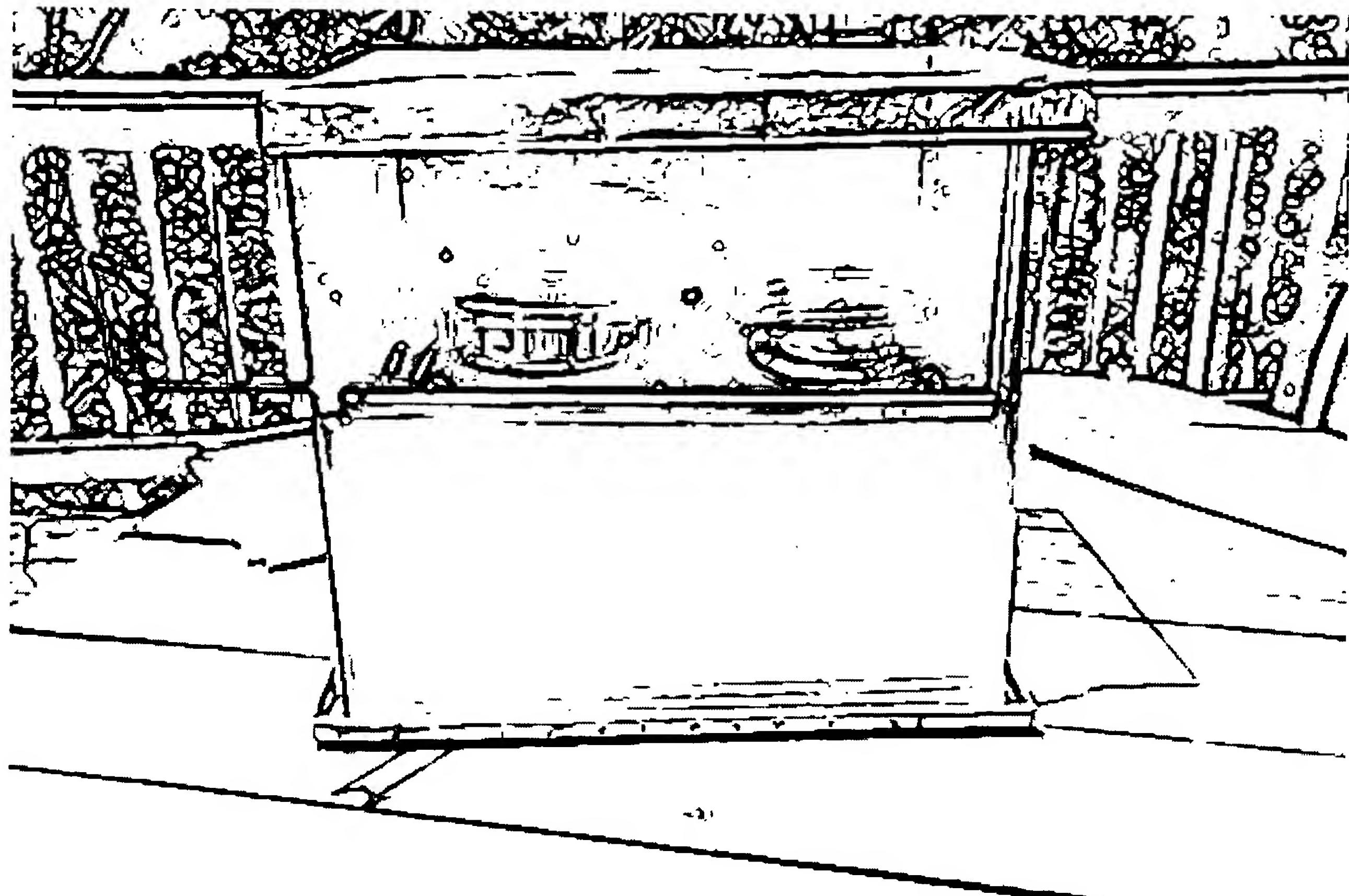


Exhibit A - Sheet 5

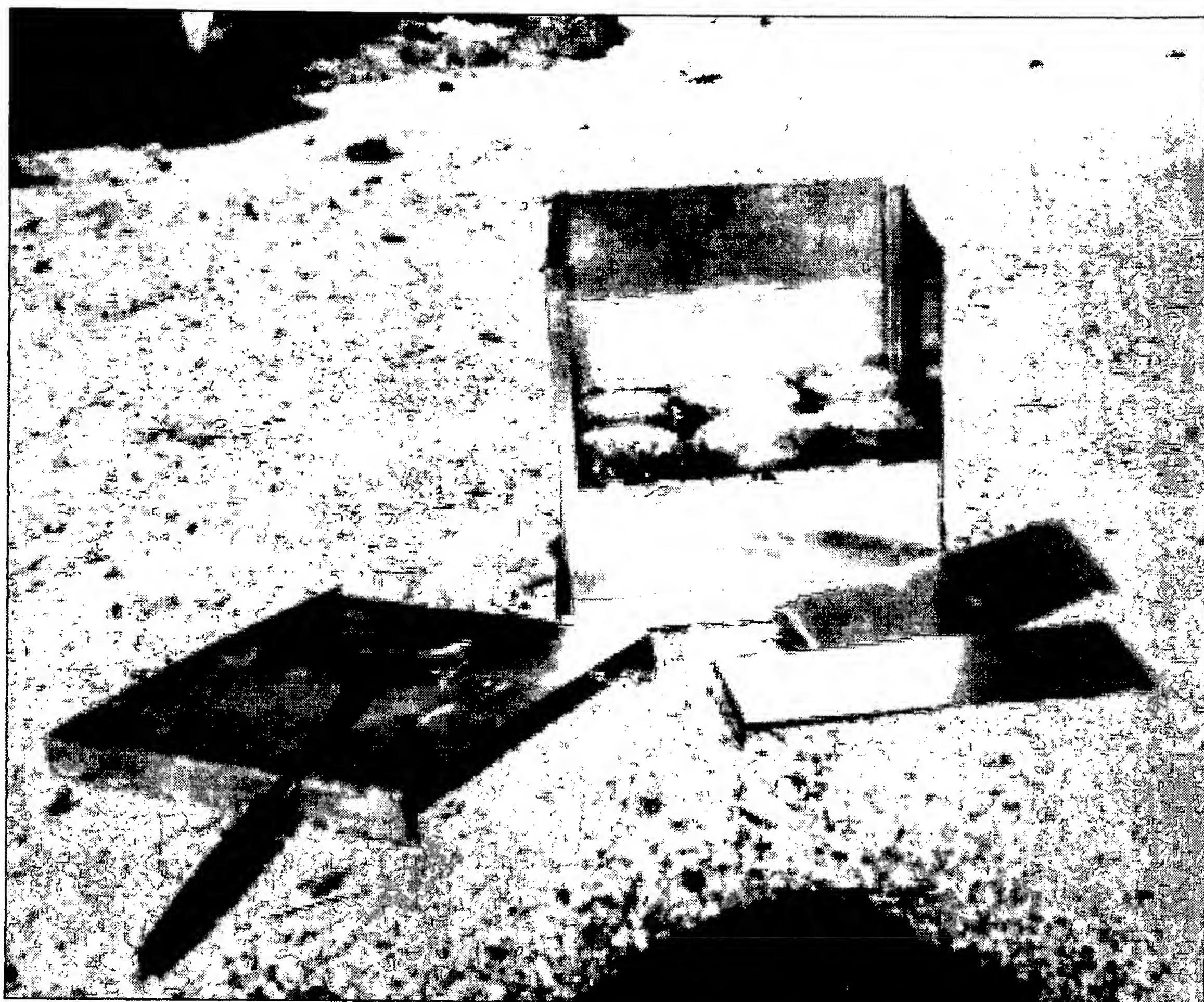


Exhibit A - Sheet 5a

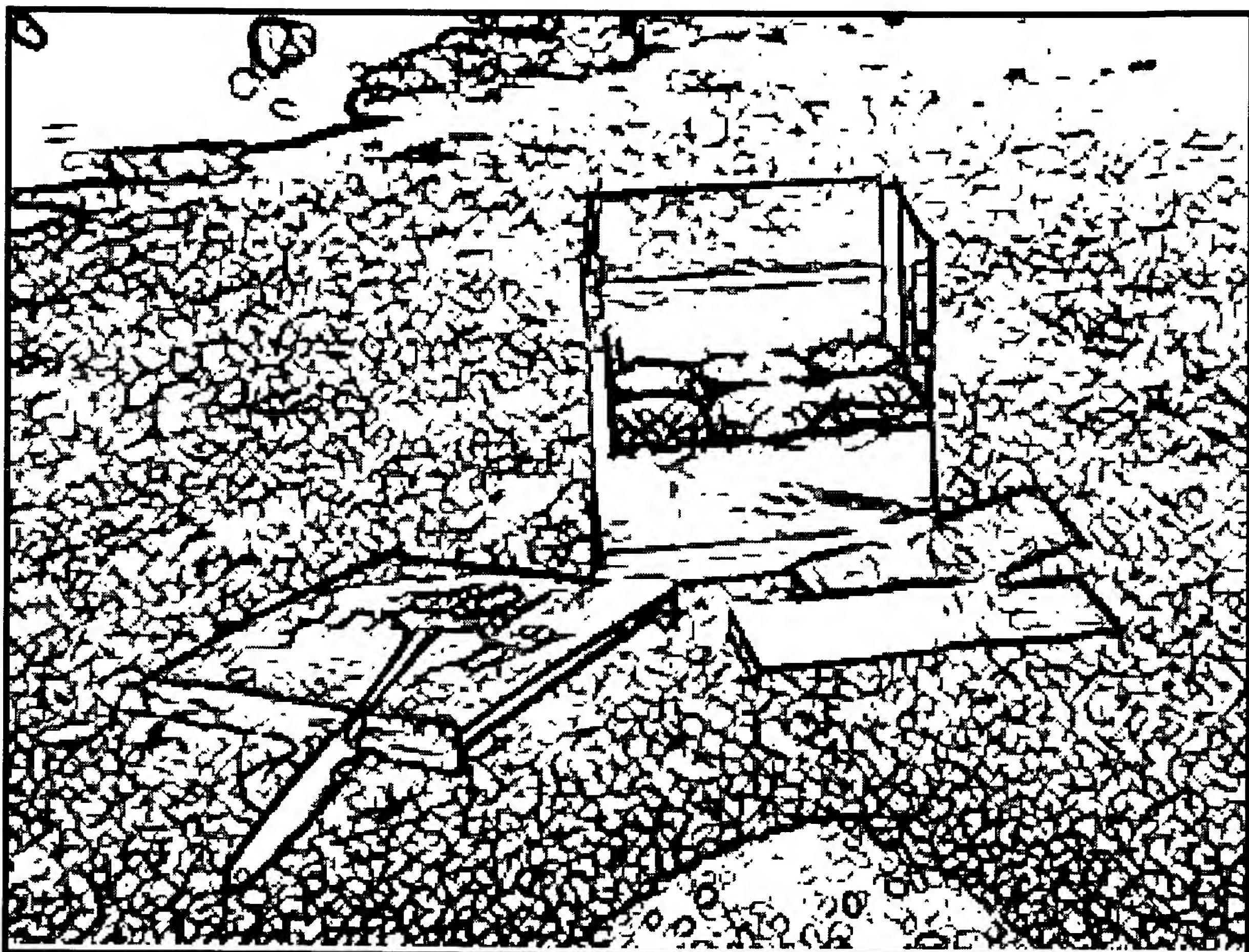
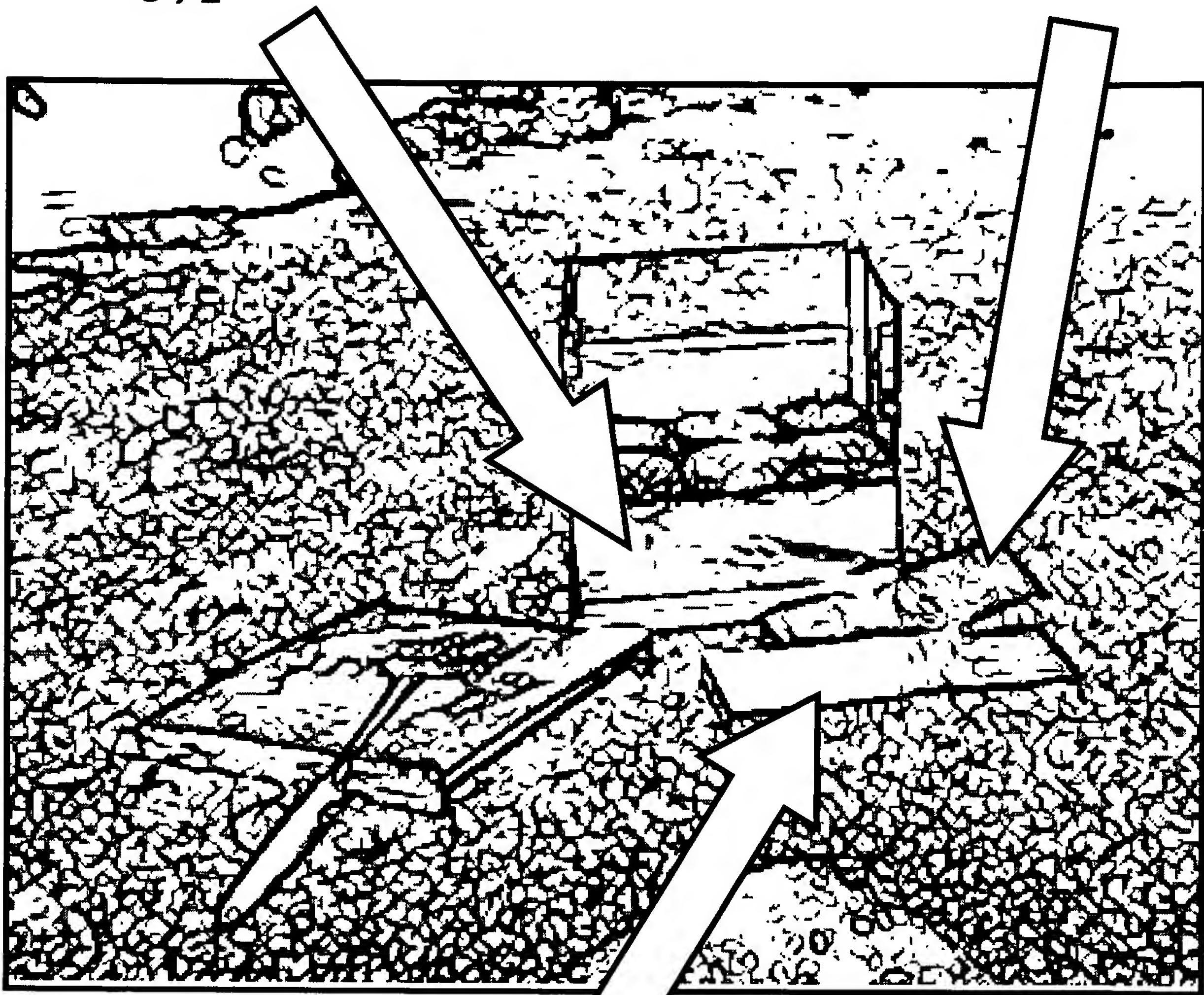


Exhibit A - Sheet 5b

Panel 'A'

$3\frac{1}{2}$ "



Panel 'B'

3"

Panel 'C'

$2\frac{1}{2}$ "

Exhibit A - Sheet 6



Exhibit A - Sheet 6a

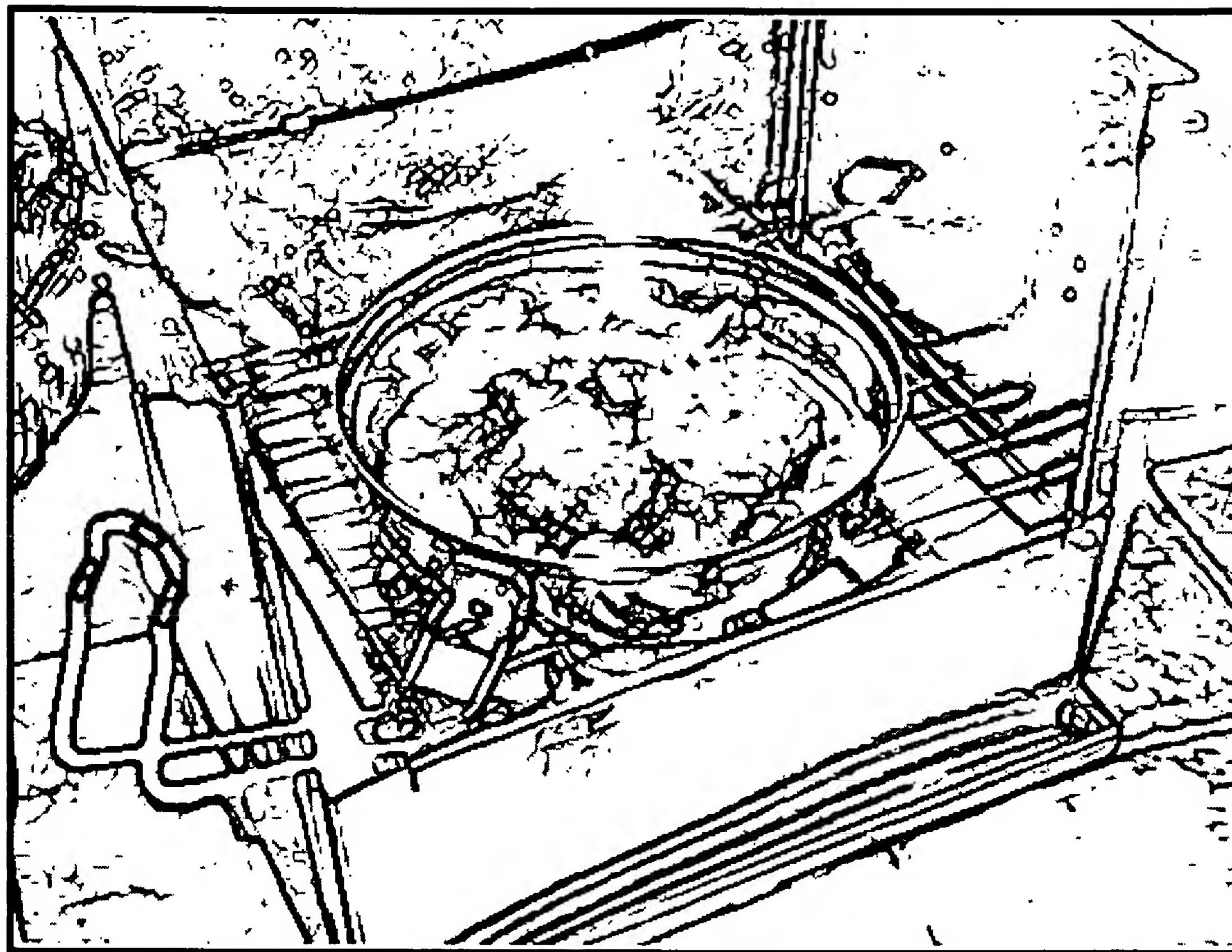


Exhibit A - Sheet 6b

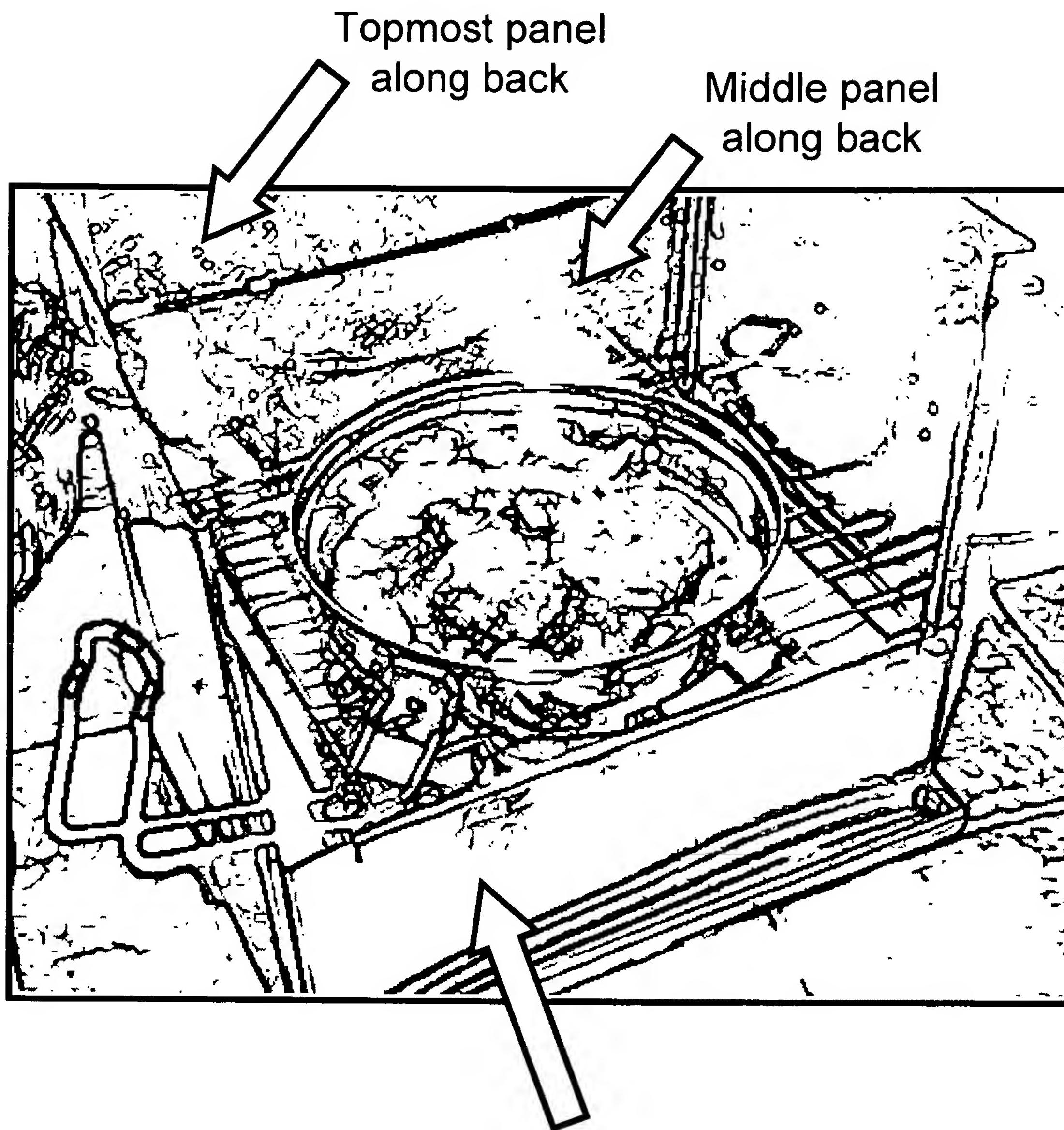


Exhibit A - Sheet 7

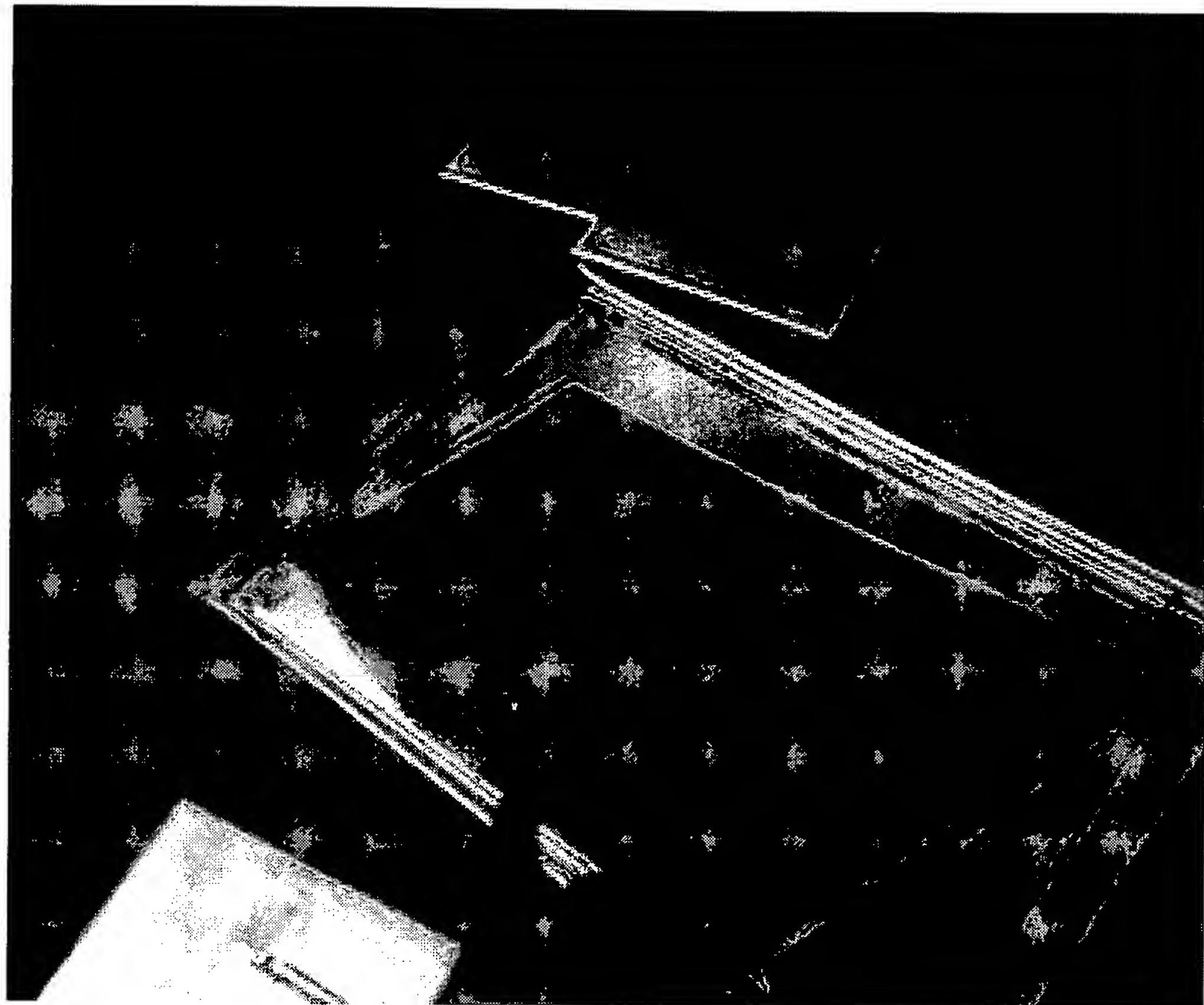


Exhibit A - Sheet 7a

